

Bryan T. Schwartz
Manhattan Office
bschwartz@gvlaw.com
646.998.1962

September 2, 2020

VIA ELECTRONIC CASE FILING

Hon Paul A. Engelmayer
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: Palacios v. D&A Contacting and Luc Vu
D/Loss: 12/29/16
Docket No.: 1:20-cv-02985
Our File No.: ACE-2019-1

Dear Hon. Engelmayer:

We represent the defendants D&A Contacting (“D&A”) and Luc Vu in this action and request the Court’s intervention in a discovery related issue - specifically complete responses to Defendants’ First Request for Interrogatories and Defendants’ First and Second Requests to Produce as they relate to damages being claimed by the Estate – as a means to comply with the October 12, 2020 fact discovery deadline.

In accordance with Your Honor’s Individual Part Rules, the parties conferred by phone on July 31, 2020 at which time, Mr. Ayoub agreed to provide the outstanding discovery without limitation. Since that date, despite Mr. Ayoub’s repeated promises to provide the outstanding discovery, I have neither received the discovery nor responses to my good faith emails dated August 4, August 25 and August 31, 2020.

This is a wrongful death actions that stems from a motor vehicle case. Damages are not only material and relevant to defense of this action, but crucial to our ability to conduct depositions and other discovery mechanisms and, more importantly, to achieving meaningful settlement discussions and ultimately resolving this case.

The following items are outstanding:

Interrogatories

- Interrogatory: State the dollar amount that Plaintiff Yolanda Nieves claims in pecuniary damages.

Manhattan 90 Broad Street, 12th Floor, New York, NY 10004 • New Jersey 1 University Plaza, Suite 306, Hackensack, NJ 07601
Westchester One Bridge Street, Suite 140, Irvington, NY 10533 • Long Island 100 Crossways Park West, Suite 305, Woodbury, NY 11797

MAILING ADDRESS: 90 BROAD STREET, 12TH FLOOR, NEW YORK, NY 10004 • 212.683.7100

Response: Such damages are being determined and will be provided under separate cover.

- Interrogatory: Provide a detailed method and/or explanation of calculation of pecuniary damages listed in response to number 3 above (regarding pecuniary damages being sought).

Response: Please see Response to Interrogatory No. 4 (Such damages are being determined and will be provided under separate cover).

- Interrogatory: State whether Decedent held any other employment besides that with House of Glory Wrestling in 2017, 2018 and 2019.

Response: A search for any such employment is being conducted and will be provided under separate cover.

- Interrogatory: Provide a computation of Decedent's gross earnings/wages related to his employment for the House of Glory Wrestling and any other employer identified in response #5 including but not limited to his base salary, holiday pay, longevity pay, and overtime pay and any medical or fringe benefits for the years 2015-2019

Response: Please see Response to Interrogatory No. 4 (Such damages are being determined and will be provided under separate cover).

- Interrogatory: If Decedent provided financial or monetary support/assistance to Plaintiff Yolanda Nieves in 2017, 2018 or 2019, provide a calculation thereof, the method thereof (i.e., Venmo, bank transfer, paying specific bills), the frequency thereof and the amount(s).

Response: Please see Response to Interrogatory No. 4 (Such damages are being determined and will be provided under separate cover).

First and Second Notices to Produce

- Provide copies of any medical lien information.

Response: At this time, Plaintiff is not in possession of any medical lien information.

- Copies of plaintiff-decedent's W-2 statements for the years 2015- 2019.

Response: Plaintiff will respond to this demand for W-2 statements under separate cover.

- An authorization for plaintiff-decedent's local, state, and federal tax filings for the years 2015-2019.

Response: Plaintiff will respond to this demand for W-2 statements under separate cover.

- Provide proof of any proof establishing any support provided by plaintiff decedent to the plaintiff administratrix or any other persons.

Response: Plaintiff will respond to this demand seeking proof of support under separate cover.

- Provide copies of all documents in support of the damages claims made by Plaintiff Yolanda Nieves.

Response: Non-privileged documents responsive to this demand are annexed hereto and were also annexed to Plaintiffs' RULE 26(A)(1) DISCLOSURE (none were attached).

- Provide to support any claims that Decedent provided financial or monetary support/assistance to Yolanda Nieves.

Response: Non-privileged documents responsive to this demand are annexed hereto and were also annexed to Plaintiffs' RULE 26(A)(1) DISCLOSURE (none were attached).

Since depositions of the parties are due to be completed by October 12, 2020, we request the Court's involvement in resolving this issue so we can timely complete discovery and comply with the Court's Scheduling Order.

Very truly yours,

Bryan T. Schwartz (BS-3033) of
GALLO VITUCCI KLAR, LLP

Cc: **VIA EMAIL**

Chad P. Ayoub, Esq. cayoub@alanripka.com
Counsel for the plaintiffs

Having received no response from plaintiff, the Court orders plaintiff to timely produce the requested responses and documents.

SO ORDERED.


PAUL A. ENGELMAYER
United States District Judge

September 15, 2020